IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

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WRIT PETITION NO : 4418 of 1995

Between:

The Depot Manager, APSRTC, Tandur,
R.R.Dist.

..... PETITIONER

AND

1. The Presiding Officer,
Labour Court III, Hyderabad.

2. Brahmacharry, H.No. 19-87, Kodandaramnagar,
Near P & T Colony, Gaddiannaram, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Certiorari or any other appropriate writ or direction calling for records relating to the order passed by the first Respondent in I.A.No.129/93 in I.D.No.82/92 dt:11-8-93 and the notification published in G.O.Rt.No. 2111 dated 28-10-93 and set aside the same as illegal and without jurisdiction.

Counsel for the Petitioner: MR.V.T.M.PRASAD (SC FOR APSRTC)
Counsel for the Second Respondent: MR.A.K.JAYAPRAKASH RAO

The Court made the following:

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ORDER:

The writ petition is filed challenging the order dated 11.08.1993 passed by the Labour Court III, Hyderabad in I.A.No.129 of 1993 in I.D.No.82 of 1992.

2. The second respondent was terminated from service. Therefore, he raised industrial dispute under Section 2-A (2) of Industrial Disputes Act before the Labour Court III, Hyderabad. The Labour Court, after considering the material, passed Award setting aside the termination order dated 12.05.1986 and directed reinstatement of the workman with continuity of service and attendant benefits from the date of application of the Award. It was also stated that the workman was entitled for 1/3rd of back wages though he was not on duty from the date of suspension till the date of removal. The Award was implemented by reinstating the workman concerned, but, since there was some ambiguity in the Award, I.A.No.129 of 1993 was filed by the workman to clarify the situation. Accordingly, the Labour Court, after hearing the parties, passed an amended Award on 11.08.1993. The said Award is assailed before this Court, which was published in the Gazette.

3. The learned counsel for the Corporation submits that there is no power of review available with the Labour Court and it amounts to virtually reviewing the Award of the Labour Court and therefore the very Award passed by the Labour Court is without jurisdiction. On this ground alone, without going to other contentions, the learned counsel submits that the order is liable to be set aside.

4. On the other hand, the learned counsel for the second respondent submits that this is only a typographical omission, which could be set right by the Labour Court by virtue of inherent powers with it and therefore, such an order cannot be said to be illegal.

5. Heard both sides.

6. The Labour Court passed the following Award:

" In the result the award is passed setting aside the impugned notice dated 12.5.86 removing the petitioner from the service and the respondent is directed to reinstate the petitioner into service for forthwith in the same post with continuity of service and

attendant benefits from the date of application of the award. The petitioner is entitled for the 1/3rd of back wages though he was not on duty from the date of suspension till the date of removal."

But however, the sentence "the petitioner is entitled for 1/3rd of back wages though he was not on duty from the date of suspension till the date of removal" was quite ambiguous. Therefore, a clarification was sought. The Labour Court after hearing the parties, finding that there was ambiguity in the said sentence, clarified the same by passing an Award and amended the sentence as follows:

" The petitioner is entitled for 1/3rd wages for the period of dismissal (i.e., date of removal till the date of award)".

7. Since it is a typographical omission which lead to ambiguity in implementation of process. It is always open for the Labour Court to correct such typographical omissions that cannot be construed as review by itself. Whether review lies against the order is separate issue? But in the instant case, what was sought to be corrected is to set right the ambiguity in the sentence. Such a power can be exercised by the Labour Court as it is entitled to exercise the inherent powers to correct the clerical omissions, errors or typographical omissions. Thus, I do not find any merit in the writ petition.

8. The writ petition is accordingly dismissed. No costs.

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G.BIKSHAPATHY,J

Date: 02nd December 2004.

Chvn/BSB

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Depot Manager, APSRTC, Tandur, R.R.District.
2. The Presiding Officer, Labour Court-III, Hyderabad.
3. Two CD copies